IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.MC.No. 628 of 2007()

CC.27/2007 of J.F.C.M-II, PEERMADE
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PETITIONER:

AMAR SHANKER GUPTA, AGED 43 YEARS,
S/O.T.R.GUPTA, KANPUR HOUSE,
II/925.A, ROSAPPUKANDAM KARA,
KUMILY,PEERMADE,IDUKKI DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:
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1. SUB INSPECTOR OF POLICE, KUMILY POLICE STATION,IDUKKI DISTRICT.

2. DEPUTY SUPERINTENDENT OF POLICE, KATTAPPANA, IDUKKI DISTRICT.

3. DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS,THIRUVANANTHAPURAM.

4. SMRITHI SHUKLA, 9/AII/925.A, ROSAPPUKANDAM KARA, KUMILY, IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.628 of 2007

Dated this the 7th day of March, 2007

ORDER

Petitioner is the 1st accused in a prosecution initiated against 2 accused persons for offences punishable, inter alia, under Section Sections 451 and 354 read with 34 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police after completing the investigation. The petitioner prays that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against him.

2. What are the reasons ? The learned counsel for the petitioner contends that the allegations are false. There are disputes between the petitioner and the defacto complainant and the defacto complainant has resorted to the criminal adjudicatory process with the only intention of vexing and harassing the petitioner. The allegations are totally false. The allegations made in the complaint show that allegations of contumacious behaviour are raised against the two accused persons presently facing indictment as also two others who are advocates deputed by the civil court. The defacto complainant, a woman, in the course of her statement before the Investigating Officer has now stated that she has no grievance against the said advocates. In these circumstances, the counsel contends that the allegations against the petitioner must be held to be false and

raised with vexatious intent. In these circumstances, it is prayed that powers under Section 482 Cr.P.C may be invoked to quash the proceedings.

3. Whether the allegations are true or not cannot obviously be resolved by this Court in proceedings under Section 482 Cr.P.C with the materials presently available. I need only mention that I have been taken through the relevant inputs available and I am not at all persuaded to agree that this is a fit case where the powers under Section 482 Cr.P.C can or ought to be invoked in favour of the petitioner to prematurely terminate the proceedings against him. It is for the petitioner to appear before the learned Magistrate and raise all appropriate contentions at the appropriate stage to claim discharge/dropping of proceedings/acquittal as the case may be.

4. This Crl.M.C is, in these circumstances, dismissed, but I may hasten to observe that the dismissal of this Crl.M.C shall not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate.

(R.BASANT, JUDGE)

rtr/-